

# THE PROPOSED

PROVINCIAL

# BANKING LAW

FOR

THE PROVINCE OF ALBERTA

(By JOHN W. LEEDY)

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"What's The Matter With Canada ?" .....	25c
"The Proposed Provincial Banking Law," .....	50c

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(By Mail. Post Paid)

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10278 89TH STREET

EDMONTON

ALBERTA

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# THE BANKING ACT

## OF THE

### PROVINCE OF ALBERTA

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Prepared for attachment to a petition as provided by the Direct Legislation Act of the Province of Alberta, asking a Plebiscite on the question of whether or not this proposed Banking Act shall be enacted into Law in the Province of Alberta.

This Act shall be known as "The Provincial Banking Act of the Province of Alberta."

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SEC. 1. *Organization of Banks.* Any five or more persons may organize themselves into a banking corporation, and shall be permitted to carry on the business of receiving money on deposit and to allow interest thereon, giving to the person depositing credit therefor; and of buying and selling exchange, gold, silver, foreign coin, bullion, uncurrent money, bonds of the Dominion of Canada and of the Province of Alberta, and bonds and warrants of cities, municipalities and school districts in the Province of Alberta; of loaning money on real estate, chattel and personal security at a rate of interest not to exceed the legal rate allowed by law; of discounting negotiable notes and of notes not negotiable, and to own a suitable building, furniture and fixtures for the transaction of its business, of the value not to exceed one-third of the capital of such bank; provided that nothing in this section shall prohibit such bank from holding and disposing of such real estate as it may acquire through the collection of debts due to it.

**Sec. 2. *Name; capital stock; charter.*** The name selected for such bank shall not be the name of any other bank doing business in the Province or Dominion of Canada, but shall include the word "Province," and shall have the approval of the bank commissioner, and the capital shall not be less than ten thousand dollars in towns and cities with population less than 500; in towns or cities with a population of 500 but not exceeding 1,000, the capital shall not be less than fifteen thousand dollars; in all cities of the third class with a population of 1,000 and over, the capital shall not be less than twenty thousand dollars; in all cities of the second class, the capital shall not be less than twenty-five thousand dollars; and in all cities of the first class, the capital shall not be less than fifty thousand dollars; and in addition to the other requirements, shall contain the names and places of residence of its stockholders and the amount of stock subscribed by each, and may contain such other provisions not inconsistent with law as the stockholders may deem proper. The charter shall be subscribed by at least five of the stockholders of the proposed bank who are residents of the Province of Alberta, and shall be acknowledged by them; and the full amount of capital stock shall be subscribed before the charter is filed; provided, that the limitations in regard to capital herein shall not apply to banks already chartered at the time of the passage of this act, except that no bank shall be permitted to reduce its capital below the amount provided by this act.

**Sec. 3. *Date of existence.*** The existence of such bank as a corporation shall date from the filing of its charter, from which time it shall have and may exercise the powers conferred by law upon corporations generally, except as limited or modified by this act; provided, that such bank shall transact no business except the election of officers, the taking and approving their official bonds, the receipts of payments on account of subscriptions to its capital stock, and such other business as is incidental to its organization, until it has been authorized by the bank commissioner to commence the business of banking as hereinafter provided.

**Sec. 4. *Shares.*** The capital stock of any such association shall be divided into shares of \$100 each, and all subscriptions to said capital stock shall be paid in cash; provided, that in the re-organization of a bank, assets of the old bank worth par may be accepted in lieu of cash.

SEC. 5. *Statement; certificate.* When the capital of any such bank shall have been paid in, the president or cashier thereof shall transmit to the bank commissioner a verified statement showing the names and residence of stockholders, the amount of stock subscribed, and the amount paid in by each; and the bank commissioner shall thereupon have the same power to examine into the condition and affairs of such bank as if it had been before that time engaged in the banking business; and he shall within thirty days from the receipt of such statement make such examination, and shall examine especially as to the amount of money paid, in on account of its capital, and by whom paid, and the amount of capital stock of which each stockholder is in good faith the owner, and whether such bank has complied with the provisions of law in all respects; and if such bank has been organized as prescribed, and has in all respects complied with the provisions of law, said commissioner shall issue to such bank, under his hand and seal, a certificate showing that it has been organized and its capital paid in as required by law, and is authorized to transact a general banking business as provided by this act.

SEC. 6. *Increase of stock.* No increase in the capital stock of any such bank shall be made unless the same shall be fully paid up at the time when subscriptions are entered therefor; and a verified statement shall be transmitted to the bank commissioner showing the amount of the increase, the names and places of residence of the subscribers therefor, the amount subscribed by each, and that the same has been fully paid in. The date and amount of each increase shall also be certified to the Provincial Secretary.

SEC. 7. *Delinquent stock, how sold; old bank amend charter.* Whenever any shareholder, or his assignee, fails to pay any assessment on his stock, when the same is required to be paid, the directors of such bank may sell the stock of such delinquent shareholder, or as much thereof as is necessary to satisfy the debt, at public auction, after having given three weeks' previous notice thereof in a newspaper published and in general circulation in the city or municipal district where the bank is located, to any person who will pay the highest price therefor, to be not less than the amount due thereon with the expenses of the advertisement and sale; but said stock so bid for shall at the price bid be first tendered to the other stockholders of said bank at said price, and if said stock is not taken by the said stockholders or any of them,

then said stock shall be sold to the said highest bidder, and the excess, if any, shall be paid to the delinquent stockholder. If no bidder can be found who will pay for such stock the amount due thereon and the cost of the advertisement and sale, the amount previously paid shall be forfeited to the bank, and such stock shall be sold as the directors shall order, within six months from the time of such forfeiture.

SEC. 8. *Dissolution of.* Any corporation transacting business under this act may be dissolved by the Supreme Court of the Province of Alberta in the following manner: A verified petition shall be filed in the office of a clerk of said court, signed by the president or a majority of the board of directors, setting forth that stockholders representing two-thirds in amount of the stock of such association have adopted a resolution favoring such dissolution, and directing proceedings to be instituted for that purpose, a copy of which resolution shall set forth that all claims and demandse against such association have been paid and discharged; and thereupon a notice shall be published for the time and in the manner prescribed by the law for service by publication. Such notice shall state the location of the court in which the petition has been filed, the substance and purpose thereof, and that unless objections are filed thereto on or before a time to be stated, which shall not be less than forty-one days from the first publication, the relief prayed for will be granted. A copy of such notice shall be sent to the bank commissioner within ten days after the first publication thereof, and he shall, within thirty days thereafter, make a thorough examination of the affairs of such bank, and file a certified copy of his report with said petition. Any creditor or stockholder may, on or before the time fixed by the notice, and afterwards, if permitted by the court, file written objections to the dissolution of such corporation. The petition and objections thereto, if any, shall stand for hearing the same as a civil action; and if upon the hearing thereof the court shall be satisfied that the petition is true, and that there is no valid objection to the dissolution of such corporation, it shall render judgment dissolving the same.

SEC. 9. *Management and control; cashier's bond; meetings.* The affairs and business of any banking corporation doing business under this act shall be managed and controlled by a board of directors, not less than five nor more than thirteen in number,



who shall be selected from the stockholders at their annual meeting, which shall be held on any day between the 1st and 10th days of January of each year, and in the manner provided in the Joint Stock Companies Act. A majority of such directors shall be residents of the city or municipal district, or adjoining districts to that in which the bank is located. The board shall designate one of their number to act as president and one as secretary, and may designate one or more of their number to act as vice president or vice presidents, and shall select from among the stockholders a cashier. Such officers shall hold their offices for the term of one year and until their successors are elected and qualified, and before entering upon the discharge of their duties shall take and subscribe to an oath that they will, so far as the duty devolves upon them, diligently and honestly administer the affairs of such bank, and will not knowingly or willingly permit to be violated any of the provisions of the law, and that they are the owners, in good faith and in their own right, of the number of shares of stock subscribed by them or standing in their names on the books of the bank; and no person shall hold the office of director or cashier or managing officer of any bank unless he owns, in his own name and right and in good faith, at least five hundred dollars of stock, which shall not be pledged or in any way hypothecated; provided, that any trust company which shall be the owner of the required amount of stock in any bank may, by resolution of its board of directors, designate one of its stockholders to represent it, and when so designated such stockholder shall be deemed and held to be an owner in good faith for the purposes of this act. Such oath, subscribed by the directors making it and certified by the officers before whom it is taken, shall be immediately transmitted to the bank commissioner and shall be filed and preserved in his office. The board of directors shall require the cashier, and any and all other officers having the care and handling of the funds of the bank, to give good and sufficient bond to cover the term for which they are elected, to be approved by them and held by such custodian as the board may designate. The board of directors shall hold not less than four regular meetings each year; such meetings shall be held between the 1st and 10th days of January, April, July and October of each year, and at such meetings a thorough examination of the books, records, funds and securities held by the bank shall be made by them, and the result of such examination shall be recorded in detail upon the record book of the bank.

A certified copy of the record of such meetings, properly sworn to and duly verified by a majority of the directors of said bank, shall be forwarded to the Bank Commissioner within 10 days after holding the same.

SEC. 10. *Shareholders' liability.* The shareholders of every bank organized under this act shall be additionally liable for a sum equal to the par value of stock owned, and no more.

SEC. 11. *Investment of funds.* No bank shall employ its moneys, directly or indirectly, in trade or commerce, by buying and selling goods, chattels, wares and merchandise, and shall not invest any of its funds in the stock of any other bank or corporation, nor make any loans or discounts on the security of the shares of its own capital stock, nor be the purchaser or holder of any such shares unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith; and stock so purchased or acquired shall, within six months from the time of its purchase, be sold or disposed of at public or private sale. After the expiration of six months any such stock shall not be considered as a part of the assets of any bank; provided, that it may hold and sell all kinds of property which may come into its possession as collateral security for loans or any ordinary collection of debts, in the manner prescribed by law, but any goods or chattels coming into possession of any bank as aforesaid shall be disposed of as soon as possible, and shall not be considered as a part of the bank's assets after the expiration of six months from the date of acquiring same.

SEC. 12. *Relating to Bank Reserve.* Each bank doing business under this act shall hold and maintain a reserve consisting of cash in its vaults and credits in solvent banks none of the stockholders of which are stockholders in the depositing bank, except when approved by the provincial bank commissioner. Such reserve shall be held and maintained as follows:

(a) A bank located in a city having less than fifty thousand population, in which the credits due other banks are less than twenty per centum of its deposits, shall hold and maintain reserves equal to twelve per centum of the aggregate amount of its demand deposits and five per centum of its time deposits, as follows: In its vaults four twelfths, and either in its vaults or in other banks eight twelfths; provided, that upon approval of the bank commis-

sioner, any bank, located in a city having less than one thousand population, shall not be required to keep in its vaults more than three twelfths of its reserves.

(b) A bank located in a city having not less than fifty thousand population, in which the credits due other banks are not less than twenty per centum of its deposits, and any bank located in a city having a population of fifty thousand or over, shall hold and maintain reserves equal to fifteen per centum of the aggregate amount of its demand deposits and five per centum of its time deposits as follows: In its vaults five fifteenths, and either in its vaults or in other banks ten fifteenths.

(c) The reserves carried by a bank in other banks may be checked against, under such regulations as may be prescribed by the provincial bank commissioner, for the purpose of meeting liabilities; provided, that no bank shall make new loans or pay dividends, unless, at the time, the required reserves are maintained.

(d) The net balance only, due to and from other banks, shall be taken into account in estimating the amount of deposits on which the reserve requirements of any bank is based. The bank commissioner may refuse to consider as a part of the reserves of any bank, any funds in another bank any of whose stockholders are stockholders of the depositing bank, or which shall neglect or refuse to furnish him with information asked for relating to its solvency or concerning its business with the depositing bank.

(e) Demand deposits within the meaning of this act shall comprise all deposits within thirty days, and time deposits shall comprise all deposits payable after thirty days, and all savings accounts and certificates of deposit which are subject to not less than thirty days' notice before payment.

(f) The bank commissioner may suspend for a period not to exceed thirty days, and from time to time renew such suspension for periods not to exceed fifteen days, any reserve requirements specified in this act.

(g) Any bank whose reserves are below that required by this act, which shall violate any regulation or requirement of the provincial bank commissioner as to such reserves, and shall fail to restore its reserves, for a period of thirty days after being notified so to do, may be deemed insolvent, and the provincial bank commissioner may take possession thereof and proceed in the manner provided by law as to insolvent banks.

**SEC. 13. *Loans limited.*** The total liability to any bank of any person or company, corporation or firm, for money borrowed, including in the liabilities of a company or firm the liabilities of the several members thereof, shall not, at any time, exceed fifteen per cent. of the capital stock and surplus of such bank actually paid in; but the discount of bills of exchange drawn in good faith against actual existing values or loans upon produce in transit, or upon warehouse or elevator receipts as collateral security, and the discount of commercial or business paper actually owned by the person negotiating the same, shall not be considered as money borrowed. The bank commissioner may, at any time, order any excess loan reduced to the legal limit within sixty days from the date of notification by him.

**SEC. 14. *Penalty for false statement.*** Every officer, director, agent or clerk of any bank (other than a dominion bank) doing business in the Province of Alberta, who wilfully and knowingly subscribes to or makes any false report or any false statement or entry in the books of such bank, or knowingly subscribes or exhibits any false writing or paper, with the intent to deceive any person as to the condition of such bank, shall be punished by a fine not to exceed \$1,000, or by imprisonment in the penitentiary not less than one year nor more than five years.

**SEC. 15. *Insolvent bank receiving deposits.*** No bank shall accept or receive on deposit, with or without interest, any money, bank bills or notes, or Dominion of Canada treasury notes, gold or silver certificates, or currency, or other notes, bills, checks, or drafts, when such bank is insolvent; and any officer, director, cashier, manager, member, partner or managing partner of any bank, who knowingly violate the provisions of this section or be accessory to or permit or connive at the receiving or accepting on deposit of any such deposit, shall be guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding \$5,000, or by imprisonment in the penitentiary not less than one year nor more than five years, or by both such fine and imprisonment.

**SEC. 16. *Banks without authority; penalty.*** It shall be unlawful for any individual, firm or corporation to transact a banking business, or receive deposits, without having first transmitted to the bank commissioner a verified statement of the resources and liabilities of such individual, firm, or corporation; said statement

shall be made in accordance with sections 5 and 17 of this act. The bank commissioner shall thereupon have power to examine into the condition and affairs of such bank, and shall within thirty days from the receipt of such statement make such examination; and if such bank has in all respects complied with the provisions of law applicable thereto, said commissioner shall issue to such individual, firm, or corporation, under his hand and seal, a certificate showing the amount of capital paid in and that the same is authorized to transact a general banking business, as provided by this act. And it shall be unlawful for any individual, firm or corporation to transact a banking business without having first received such certificate from the bank commissioner. Any person violating the provisions of this section, either individually or as an interested party in any association or corporation, shall be guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not less than \$300 nor more than \$1,000, or by imprisonment in the provincial jail not less than thirty days nor more than one year, or by both such fine and imprisonment.

SEC. 17. *Report to commissioner.* Every bank shall make at least four reports each year, and oftener if called upon, to the bank commissioner, according to the form which may be prescribed by him, verified by the oath or affirmation of the president or cashier of such association, and attested by the signature of at least three of the directors. Each such report shall exhibit, in detail and under appropriate heads, the resources and liabilities of the association at the close of business on any past day by him specified, and shall be transmitted to the bank commissioner within ten days after the receipt of a request or requisition therefor from him, or within ten days after publication of the call for such statement in the Alberta Provincial Gazette, and shall be published in such form as the commissioner may prescribe, within ten days after the same is made out, in a newspaper published in the place where such bank is established, or if there is no newspaper in the place then in one published nearest thereto in the same city or district, at the expense of the bank; and such proof of publication shall be furnished within five days after date of publication as may be required by the bank commissioner. The bank commissioner shall also have power to call for special reports from any bank whenever in his judgment the same are necessary in order to obtain a full and complete knowledge of its condition. The verification of such statement shall be made in the following form:

PROVINCE OF ALBERTA, CITY OF.....To Wit:

I, ....., president [or cashier] of said bank, do solemnly swear that the above statement is true; that said bank has no liabilities, and is not indorser on any note or obligation, other than shown in the above statement, to the best of my knowledge and belief. So help me God.

....., *President—Cashier.*

SEC. 18. *Statement of dividends.* In addition to the reports required by the preceding section, each bank doing business under this act shall, within ten days after the declaring of any dividend, forward to the bank commissioner a statement of the amount of such dividend and the amount carried to surplus and undivided-profit account, and shall forward to the commissioner, within ten days after the 1st day of January in each year, in such form as he may designate, a verified statement showing the receipts and disbursements of such bank for the preceding year.

SEC. 19. *Failing to report.* Every bank which fails to make and transmit or to publish any report required under either of the two preceding sections shall be subject to a penalty of fifty dollars for each day after the period respectively therein mentioned that it delays to make and transmit its report of the proof of publication. Whenever any bank delays or refuses to pay the penalty herein imposed for a failure to make and transmit or to publish a report, the commissioner is hereby authorized to maintain an action in the name of the Province of Alberta against the delinquent bank for the recovery of such penalty, and all sums collected by such action shall be paid into the provincial treasury and placed to the credit of the banking department.

SEC. 20. *Refusal to comply.* Every bank doing business under authority of this act which shall refuse or neglect to comply with any requirements lawfully made upon it by the bank commissioner pursuant to this act, for a period of ninety days after demand in writing is made, shall be deemed to have forfeited its franchise, and the bank commissioner shall thereupon revoke its authority to transact a banking business, by notice to the president or cashier thereof, by publication in the official Provincial Gazette; and any failure on the part of such bank to comply with, or any violation of the provisions of this act, shall work a forfeiture of its franchise; and in either case the attorney-general,

upon the request of the bank commissioner, shall commence an action for the purpose of dissolving said corporation.

SEC. 21. *Bank commissioner.* The Executive Council shall appoint, by and with the advice of the Alberta Legislature, a bank commissioner for the Province of Alberta, whose term of office shall be during the pleasure of the Government and until his successor is appointed and qualified. The bank commissioner shall appoint an assistant bank commissioner, two field deputies, one clerk, and one stenographer. The compensation of the bank commissioner and his staff for services shall be such amounts as the Legislature may provide. No person shall be eligible to appointment as bank commissioner or deputy who shall not have had at least three years' practical knowledge of banking, or shall have served at least one term as bank commissioner; provided, that no bank commissioner nor his deputy shall examine any bank in which he is a stockholder or in any manner financially interested. If a vacancy shall occur in the office of bank commissioner by death, resignation, or otherwise, the same shall be filled by appointment by the Government of the Province of Alberta; and any such appointee shall hold the office for the unexpired term.

SEC. 22. *Oath and Bond.* The bank commissioner and deputies shall each, before entering upon the discharge of his duties, take and subscribe the usual oath of office and execute to the Province of Alberta a good and sufficient bond, to be approved by the Executive Council, conditioned that he will faithfully and impartially discharge the duties of his office, and pay over to the persons entitled by law to receive it all moneys coming into his hands by virtue of his office; the commissioner in the sum of \$20,000 and the deputies in the sum of \$10,000, with sufficient sureties, to be approved and filed as provided by law.

SEC. 23. *Visit banks.* It shall be the duty of the commissioner or his deputy to visit each and every bank doing business in this Province, except banks with Dominion of Canada charters, at least twice each year, and oftener if necessary, for the purpose of making a full and careful investigation and inquiry into the condition of affairs of such bank; and for that purpose the commissioner or deputy is hereby authorized and empowered to administer oaths and to examine under oath the owners and directors and all officers and employees and agents of such bank. The of-

for making such investigation shall reduce the result thereof to writing, which shall contain a full, true and careful statement of the condition of such bank.

SEC. 24. *Fees for examination.* Each bank examined by the provincial bank commissioner, his assistants or deputies, for each and every examination shall pay to the officer making the examination a fee as follows: Any bank having loans of not over \$75,000, fifteen dollars; any bank having loans of over \$75,000 and not more than \$150,000, twenty dollars; any bank having loans of over \$150,000 and not over \$300,000, thirty-five dollars; any bank having loans of over \$300,000 and not more than \$450,000, fifty dollars; any bank having loans of over \$450,000 and not more than \$600,000, sixty dollars; any bank having loans of over \$600,000, seventy-five dollars.

SEC. 25. *Record of fees.* It shall be the duty of the bank commissioner to keep a record of all fees collected by him or his deputy, together with a record of the expenses incurred in making the examination of all banks, and at the end of each quarter pay over to the provincial treasurer all fees collected during the preceding quarter; and he shall file with the provincial treasurer an itemized statement showing from whom collected.

SEC. 26. *Report of prior date.* The commissioner shall have power, at any time when he deems it necessary, to call upon any bank for a report of its condition upon any given day which has passed, or as often as the commissioner may deem it necessary.

SEC. 27. *Notice.* A copy of each call made by the bank commissioner for a statement from all banks doing business under this act shall be mailed to each bank, and such call shall be published in the official provincial paper, and such publication shall be deemed legal notice to all such banks.

SEC. 28. *Insolvency; duty of bank commissioner.* If, upon examination by the provincial bank commissioner or his deputy, or from any report made to the bank commissioner, it shall appear that any bank is insolvent, or has willfully violated any requirement of this act, it shall be the duty of the bank commissioner to immediately take charge of such bank and all property and effects thereof. The bank commissioner may appoint a special deputy bank commissioner to take charge of the affairs of an insolvent bank temporarily until a receiver is appointed; such



deputy shall qualify, give bond and receive compensation the same as the regular deputy; such compensation to be paid by such bank or allowed by the court as costs in case of the appointment of a receiver; provided, that in no case shall any bank continue in charge of such special deputy for a longer period than six months. Upon taking charge of any bank, the bank commissioner shall as soon as possible ascertain, by a thorough examination into its affairs, its actual condition; and whenever he shall become satisfied that such bank can not resume business or liquidate its indebtedness to the satisfaction of all its creditors, he shall forthwith appoint a receiver and require of him such bond and security and allow him such reasonable compensation as he deems proper; such compensation to be subject to the approval of the Supreme Court, upon the application of any party in interest. Such receiver, who shall be a resident of the Province of Alberta, under the direction of the bank commissioner, shall take charge of such bank and its assets, and wind up the affairs and business thereof for the benefit of its depositors, creditors and stockholders. Such receiver shall, upon the order of a court of competent jurisdiction, or the judge thereof in chambers, upon the application of the bank commissioner, sell or compound all bad or doubtful debts due to the bank and sell all personal property of such bank on such terms as the court shall direct, and may, upon like order of such court, sell all real property of such bank on such terms as the court shall direct, and shall, if necessary to pay the debts of such bank, enforce the individual liability of the stockholders. Such receiver shall pay over all moneys received by him to the creditors of the bank as ordered by the bank commissioner; provided, that the bank commissioner shall appoint any person who the holders of more than fifty per cent. of the claims against such bank may agree upon in writing; and provided further, that such creditors so agreeing shall have the right to contract with the person who they may name as to the compensation and charges to be by him received for liquidating the affairs of such bank, and shall make report to the bank commissioner of all his acts and proceedings.

SEC. 29. *In commissioner's hands.* Any bank doing business under this act may place its affairs and assets under the control of the bank commissioner by posting a notice on its front door as follows: "This bank is in the hands of the provincial bank commissioner." The posting of such notice or the taking posses-

sion of any bank by the bank commissioner shall be sufficient to place all its assets and property of whatever nature in the possession of the bank commissioner, and shall operate as a bar to any attachment proceedings.

SEC. 30. *Voluntary liquidation.* Any bank doing business under this act may voluntarily liquidate by paying off all of its depositors in full; and upon filing a verified statement with the bank commissioner, setting forth the fact that all of its liabilities have been paid, and the surrendering of its certificate of authority to transact a banking business, it shall cease to be subject to the provisions of this act, and may continue to transact a loan and discount business under its charter; provided, that nothing in this section shall prevent the bank commissioner from making examination of any such bank for the purpose of determining that all its liabilities have been paid.

SEC. 31. *When insolvent.* A bank shall be deemed to be insolvent—first, when the actual cash market value of its assets is insufficient to pay its liabilities; second, when it is unable to meet the demands of its creditors in the usual and customary manner; third, when it shall fail to make good its reserve as required by law.

SEC. 32. *Declare dividends.* The directors or owners of any bank doing business under this act may declare dividends of so much of the net profits of their bank as they shall judge expedient; but each bank shall, before the declaration of a dividend, carry one-tenth part of its net profits since the last preceding dividend to its surplus fund, until the same shall amount to fifty per cent. of its capital stock.

SEC. 33. *Losses charged.* Any losses sustained by any bank in excess of its undivided profits may be charged to its surplus account; provided, that its surplus fund shall thereafter be reimbursed from its earnings, and no dividend shall be declared or paid by any such bank in excess of one-half of its net earnings until its surplus fund shall be fully restored to its former amount.

SEC. 34. *Can not withdraw capital.* No bank officer or director thereof shall, during the time it shall continue its banking operations, withdraw or permit to be withdrawn, either in form of dividends or otherwise, any portion of its capital. If losses have at any time been sustained by such bank equal to or exceeding its

undivided profits then on hand, no dividend shall be made, and no dividend shall be declared by any bank while it continues its banking business to any amount greater than its net profits on hand, deducting therefrom its losses, to be ascertained by a careful estimate of the actual cash value of all its assets at the time of making such dividends; the present worth of all maturing paper shall be estimated at the usual discount rate of the bank. Nothing in this section shall prevent the reduction of the capital stock of any bank in the manner prescribed herein.

SEC. 35. *Penalty.* Every banker, officer, employee, director or agent of any bank who shall neglect to perform any duty required by this act, or who shall fail to conform to any lawful requirement made by the bank commissioner, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed \$1,000, or by imprisonment in the provincial jail not to exceed one year, or by both fine and imprisonment.

SEC. 36. *Considered banking.* Any individual, firm or corporation who shall receive money on deposit, whether on certificates or subject to check, or shall receive money for which it issues its check, draft, bill of exchange or other evidence of indebtedness for which it charges a fee, shall be considered doing a banking business, and shall be amenable to all the provisions of this act; provided, that promissory notes issued for money received on deposit shall be held to be certificates of deposit for the purposes of this act.

SEC. 37. *Certified checks.* It shall be unlawful for any officer, clerk or agent of any bank doing business under this act to certify any check, draft or order drawn upon the bank unless the person, firm or corporation drawing such check, draft or order has on deposit with the bank, at the time such check, draft or order is certified, an amount of money equal to the amount specified in such check, draft, or order. Any check, draft or order so certified by the duly authorized officer shall be a good and valid obligation against such bank; but any officer, clerk or agent of any bank violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished as provided in section 35 of this act.

SEC. 38. *Intent to defraud.* Every president, director, cashier, assistant cashier, teller, clerk, officer or agent of any bank who

embezzles, abstracts or willfully misapplies any of the moneys, funds, securities or credits of the bank, or who issues or puts forth any certificate of deposit, draws any draft or bill of exchange, makes any acceptance, assigns any note, bond, draft, bill of exchange, or who makes use of the name of the bank in any manner, with intent in either case to injure or defraud the bank, or any individual, person, company, or corporation, or to deceive any officer of the bank, or any agent appointed to examine the affairs of the bank, and any person who with like intent aids or abets any officers, clerk or agent in violation of this act, shall be deemed guilty of a felony, and upon conviction thereof shall be imprisoned in the provincial jail for not less than one year nor more than two years.

SEC. 39. *Overchecks.* Any bank officer who shall pay out or permit to be paid out the funds of any bank upon the check, order or draft of any individual, firm, company, corporation or association which has not on deposit with such bank a sum equal to such check, order or draft, shall be personally liable to such bank for the amount so paid.

SEC. 40. *Collateral security.* No bank, bankers or bank officers shall give preference to any depositor or creditor by pledging the assets of the bank as collateral security, except bonds of the Dominion of Canada, of the Province of Alberta, or of some municipality or school district of the Province of Alberta, or other securities, may be deposited with the provincial treasurer as security for the deposit of provincial money and with the trustees of postal savings bank funds for the security of such funds; provided, that any bank may borrow money for temporary purposes not to exceed in amount fifty per cent. of its paid-up capital, and may pledge assets of the bank not exceeding twenty per cent. in excess of the amount borrowed, as collateral security therefor; provided further, that whenever it shall appear that a bank is borrowing habitually for the purpose of re-lending, the bank commissioner may require such bank to pay off such borrowed money. Nothing herein shall prevent any bank from rediscounting in good faith and indorsing any of its negotiable notes. It shall be unlawful for any bank to issue its certificate of deposit for the purpose of borrowing money.

SEC. 41. *Name; banker's note.* Any individual or firm doing business as a private bank shall designate a name for such

bank; and all property, real or personal, owned by such bank shall be held in the name of the bank, and not in the name of the individual or firm; all of the assets of any private bank shall be exempt from attachment or execution by any creditor of such individual or firm until all liabilities of such bank shall have been paid in full. No private banker shall use any of the funds of his bank for his private business, and the note of the owner or owners of any private bank shall not be considered or accepted as a part of its assets.

SEC. 42. *Stock, how reduced.* The capital stock of any bank doing business under this act may be reduced at any time by resolution adopted by a vote of its stockholders, representing three-fourths of the capital of such bank, at any regular meeting, or at a special meeting held for that purpose, of which all stockholders shall have notice as provided in the by-laws, subject to the approval of the bank commissioner. When the bank commissioner has approved of any such reduction, a certificate signed by the president and cashier of the bank setting forth the reduction of its capital and the names and amount of stock held by its stockholders shall be filed with the provincial secretary, and a duplicate copy shall be forwarded to the bank commissioner. Whenever the capital of any bank shall be reduced as provided in this act, every stockholder, owner or holder of any stock certificate shall surrender same for cancellation, and shall be entitled to receive a new certificate for his proportion of the new stock; no dividend shall be paid to any such stockholder until the old certificate shall have been surrendered.

SEC. 43. *Stock impaired.* Whenever it shall appear that the capital stock of any bank doing business under this act has been impaired, the bank commissioner shall notify such bank to make such impairment good within ninety days; and it shall be the duty of the officers and directors of any bank receiving such notice from the bank commissioner to immediately call a special meeting of its stockholders, for the purpose of making assessment on its stock sufficient to cover the impairment of its capital; provided, that such bank may reduce its capital to the extent of the impairment, if such reduction will not place its capital below the amount required by this act.

SEC. 44. *May organize as provincial bank.* Any private bank doing business in this province may incorporate as a provin-

cial bank as provided herein for the organization of banks; provided, that the bank commissioner may accept good assets of such private bank, worth not less than par, in lieu of cash in payment for the stock of such provincial bank.

SEC. 45. *Private banks.* Each individual or firm engaged in the banking business shall conform to the provisions of section 2 of this act so far as said section relates to its name and capital; provided, that the word "provincial" shall not be a part of its name; and provided further, that in all advertisements or published statements made by such bank, and upon all stationery used by it, the words "private bank" shall appear.

SEC. 46. *List of shareholders.* The president and cashier of every incorporated bank shall cause to be kept, at all times, a full and correct list of the names and residences of all the shareholders in the bank and the number of shares held by each, in the office where its business is transacted. Such list shall be subject to the inspection of all the shareholders and creditors of the bank, and the officers authorized to assess taxes under provincial authority, during the business hours of each day in which business may be legally transacted. A list of the owners of private banks shall be kept in like manner. A copy of such list, on the first Monday in January of each year, verified by oath of such president, cashier, or owners, shall be transmitted to the bank commissioner.

SEC. 47. *Refusal to be examined.* Whenever any officer of any bank shall refuse to submit the books, papers and concerns of such bank to the inspection of the commissioner, deputy or examiner appointed as aforesaid, or shall in any manner obstruct or interfere with him in the discharge of his duty, or refuse to be examined on oath touching the concerns of the bank, the commissioner may revoke the authority of such bank to transact a banking business, and may, with the concurrence of the attorney-general, institute proceedings for the appointment of a receiver for such bank to wind up its business.

SEC. 48. *Authority revoked.* Any officer of any bank whose authority to transact a banking business has been revoked as herein provided, who shall receive or cause to be received any deposit of whatever nature after such revocation, shall be subject to the penalty provided in section 16 of this act.

SEC. 49. *Real estate, held and conveyed.* Any bank may purchase, hold and convey real estate for the following purposes,

but no other: First, such as shall be necessary for the convenient transaction of its business, including its furniture and fixtures; but which shall not exceed one-third of the paid-in capital; second, such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its business; third, such as it shall purchase at sale under judgment, decrees or mortgage foreclosure under securities held by it; but a bank shall not bid, at any such sale, a larger amount than to satisfy its debt and costs. Real estate shall be conveyed under corporate seal of the bank and the hand of its president or vice president, and cashier or treasurer. No real estate acquired in the cases contemplated in the second and third subsections above shall be held for a larger time than five years. If not sold before the expiration of said five years, it must be sold at private or public sale within thirty days thereafter, or charged off out of the earnings or surplus of said bank.

SEC. 50. *Real estate.* Any bank now doing business in this province, other than Dominion banks, which owns real estate in excess of fifty per cent. of its capital shall reduce its holdings by converting same into cash or other good assets, to an amount not exceeding fifty per cent. of its paid-in capital, within one year after the passage of this act.

SEC. 51. *Transfer of stock.* The shares of stock of an incorporated bank shall be deemed personal property, and shall be transferred on the books of the bank in such manner as the by-laws thereof may direct; but no transfer of stock shall be valid against a bank so long as the registered holder thereof shall be liable as principal debtor, surety or otherwise to the bank for any debt which shall be due and unpaid, nor in such case shall any dividend, interest or profit be paid on such stock so long as such liabilities continue, but all such dividends, interests or profit shall be retained by the bank and applied to the discharge of such liabilities; and no stock shall be transferred on the books of any bank without the consent of the board of directors, where the registered holder thereof is in debt to the bank for any matured and unpaid obligation; and no transfer of stock shall be made when the bank is in a failing condition, or when its capital is impaired. All transfers of stock shall be certified to the bank commissioner immediately.

The only kind of transfer which can avail, to affect the rights of the bank, its creditors and the public, is a transfer on the books of the bank.

**Sec. 52. *In hands of receiver; examined; report.*** The bank commissioner shall examine each and every bank in the hands of a receiver at least once in each six months, until its affairs shall be wound up, and shall file a copy of each such examination with a clerk of the Supreme Court in the district where such bank is located. Receivers of all insolvent banks shall make reports to the bank commissioner in the same manner as is required of other banks, and shall cause such statements to be published in like manner. Any receiver of an insolvent bank who shall fail to comply with the provisions of this section, or who shall neglect or refuse to submit the affairs of such bank to an examination by the bank commissioner or his deputy, or who shall violate any of the provisions of this act relating to the examination of banks, shall be subject to the same penalties provided for officers or employees of banks.

**Sec. 53. *Forms; reports; fees.*** For the purpose of carrying into effect the provisions of this act, the bank commissioner shall provide a form for and make requisition upon the provincial secretary for the necessary blanks for such examinations and reports; and all examinations and reports received by him shall be preserved in his office. It shall be the duty of the bank commissioner to furnish a certified copy of any published official statement made by the bank, to any person demanding the same, upon the payment to him of the sum of ten cents per folio for each and every folio therein, and fifty cents for his certificate thereto, which fees shall be paid to the provincial treasurer quarterly, and by him placed to the credit of the bank fund.

**Sec. 54. *Institute proceedings.*** At any time after the closing of any incorporated bank it shall appear to the receiver thereof that the assets of such bank are insufficient to pay its liabilities, it shall be the duty of such receiver to immediately institute proper proceedings, in the name of the bank, for the collection of the liability of the stockholders of such bank; all sums so collected to become a part of the assets of such bank and to be distributed *pro rata* to the creditors thereof in the same manner as other funds; provided, that all transfers of property by a stockholder after the closing of any such bank and before the payment of the double liability as provided by this act shall be absolutely void as against said double liability. No action by any creditor against any stockholder of such bank for the recovery of such liability



shall be maintained unless it shall appear to the satisfaction of the court that the receiver has failed to commence action as herein provided.

SEC. 55. *Biennial report.* The bank commissioner shall make a report to the government on September 1 of every even-numbered year, which report shall contain the names of the owners or the principal officers, the paid-up capital of each, then number of banks in the province, the name and location of each, the number and date of examinations and reports made of and by each during the period covered by the report, and such other information concerning the same as the bank commissioner may deem necessary to inform the lieutenant-governor of the condition thereof.

SEC. 56. *Salaries.* The legislature shall appropriate a sum for each year to cover the incidental expenses of the bank commissioner's office, and such sum as may be necessary to defray the travelling expenses of the commissioner and his deputies. All money actually and necessarily paid out by the commissioner and his deputies for travelling and incidental expenses shall be paid to them upon the auditor's warrants, to be issued upon sworn vouchers containing an itemized account of such expenses.

SEC. 57. *Office of commissioner.* It shall be the duty of the Executive Council to provide such commissioner with a suitable office in the provincial capitol, and the necessary books, blanks, office furniture and seal of office to enable him to discharge his duties of his office.

SEC. 58. *Neglect of commissioner.* That any bank commissioner or deputy bank commissioner who shall willfully neglect to perform any duty provided for by this act, or who shall knowingly and willfully permit the violation of any of the provisions of this act for a period of ninety days, by any bank doing business under this act, or who shall knowingly or willfully make any false statement concerning any bank, or who shall be guilty of any misconduct or corruption in office, shall be deemed guilty of a misdemeanor, and, upon conviction thereof in any court of competent jurisdiction, shall be punished by a fine of not exceeding one thousand dollars, or by imprisonment in the provincial jail not to exceed one year, or by both such fine and imprisonment, in the discretion of the court, and in addition thereto shall be removed from office by the government.

Sec. 59. *Removal of bank officers.* That any officer of any provincial bank doing business in this province who may be found by the bank commissioner to be dishonest, reckless or incompetent shall be removed from office by the board of directors of the bank of which he is an officer, on the written order of the bank commissioner, and failure on the part of the board of directors of any provincial bank to comply with the order of the bank commissioner, as provided for in this section, shall cancel its authority to transact a banking business until such order is complied with.

Sec. 60. *Deposits limited.* It shall be unlawful for any bank doing business in this province to accept deposits continuously for six months in excess of ten times its paid-up capital and surplus. The violation of this section by any provincial bank for a period of thirty days shall cancel its authority to transact a banking business until the provisions of this section are complied with.

Sec. 61. *To inform provincial attorney.* It shall be the duty of the bank commissioner, or either of his deputies, to inform the agent of the attorney general of the district in which the bank is located, of any violation of any of the provisions of this act, which constitute a misdemeanor or felony, by the officers, owners or employees of any bank, which shall come to his notice, and upon receipt of such information the agent of the attorney general shall institute proceedings to enforce the provisions of this act.

Sec. 62. *Perjury.* Every officer or employee of a bank required by this act to take an oath or affirmation, who shall willfully swear or affirm falsely, shall be deemed guilty of perjury, and upon conviction thereof shall be punished as provided by the law of this province in case of perjury.

Sec. 63. *Unlawful banking.* It shall be unlawful for any individual, firm or corporation, other than Dominion banks, to advertise, publish, or otherwise promulgate that they are engaged in the banking business, without first having obtained authority from the bank commissioner as herein provided. Any such individual or member of any such firm or officer of any such corporation so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in section 35 of this act.

Sec. 64. *Receiving deposits, etc., when bank in failing condition, etc.* It shall be unlawful for any president, director, manager, cashier, or other officer of any banking institution, to assent

to the reception of deposits or the creation of debts by such banking institution, after he shall have had knowledge of the fact that it is insolvent or in failing circumstances; and it is hereby made the duty of every such officer, agent or manager of such banking institution to examine into the affairs of the same, and, if possible, know its condition. And upon failure of any such person to discharge such duty, he shall, for the purpose of this act, be held to have had knowledge of the insolvency of such bank, or that it was in failing circumstances. Every person violating the provisions of this section shall be individually responsible for such deposits so received, and all such debts so contracted; provided, any director who may have paid more than his share of the liabilities mentioned in this section may have the proper remedy at law against such other persons as shall not have paid their full share of such liabilities.

SEC. 65. *Joinder of parties.* In all suits brought for the recovery of the amount of any deposits received or debt so created, all officers, agents or managers of any such banking institutions, charged with having so assented to the reception of such deposit, or the creation of such debt, may be joined as defendants or proceeded against severally; and the fact that such banking institution was so insolvent or in failing circumstances at the time of the reception of the deposit charged to have been so received, or the creation of the debt charged to have been so created, shall be *prima facie* evidence of such knowledge and assent to such deposit or creation of such debt on the part of such officer, agent or manager so charged therewith.

SEC. 66. *Private bankers included.* The foregoing sections shall also apply to private bankers, their officers, managers, and agents; and for the purpose of this act, persons who carry on the business of banking by receiving money on deposit, with or without interest, buying and selling bills of exchange, promissory notes, gold or silver coin, bullion, uncurrent money, bonds or stocks or other securities, and of loaning money without being incorporated, shall be deemed private bankers.

SEC. 67. *Personal representatives.* This act shall extend to and may be enforced by and against executors and administrators of such deceased officers, agents, and managers.

SEC. 68. *Deputies and clerks.* That any deputy or clerk in the office of the bank commissioner of the Province of Alberta,

employed under authority of law directly conferred or by appropriation, may be authorized by the bank commissioner to examine any bank within the Province of Alberta, subject to examination under provincial authority; and any examination so made shall have the same effect in all respects as examinations made by the bank commissioner himself.

SEC. 69. *Deposits by minors authorized.* It shall be lawful for any bank now or hereafter doing business in the Province of Alberta to receive deposits from minors, and pay same upon the order of such minors. Payments so made shall discharge the bank forever from further liability on account of the money so paid.

SEC. 70. *Extension of corporate existence.* That provincial banks whose charters have lapsed by expiration of time may have such charters and charter rights extended and renewed in the manner now provided by law for the extension of charters and by making application to the Provincial Secretary for such renewal and extension of charter in the same manner as is provided by law for the extension of charters in other corporations, and upon the payment of the same fees.

SEC. 71. *Forged or raised checks.* No bank shall be liable to a depositor for the payment by it of a forged or raised check unless within six months after the return to the depositor of the voucher of such payment such depositor shall notify the bank that the check so paid is forged or raised.

SEC. 72. *Burglary with explosives.* That any person who (with intent to commit crime) breaks and enters, either by day or by night, any building, whether inhabited or not, and opens or attempts to open any vault, safe or other place by use of nitroglycerine, dynamite, gunpowder or any other explosive, shall be deemed guilty of burglary with explosives.

(a) That any person duly convicted of burglary with explosives shall be sentenced to the penitentiary, in the discretion of the court, for a period of not less than ten years nor more than thirty years.

SEC. 73. *Two-name accounts.* When a deposit has been made, or shall hereafter be made, in any bank transacting business in this province, in the names of two persons payable to either, or payable to either or the survivor, such deposit or any part thereof, or any interest or dividend thereon, may be paid to either of said

persons whether the other be living or not; and the receipt or acquittance of the person so paid shall be a valid and sufficient release and discharge to the bank for any payment so made.

SEC. 74. *Relating to forgeries.* In any criminal prosecution for forgery where the charge includes the falsely making and forging of a signature of another person to any written instrument, proof that such signature is not in the handwriting of the person whose signature it purports to be shall be *prima facie* evidence that the signing of such name was unauthorized and is a forgery.

SEC. 75. *Cheats, frauds and bogus checks.* Every person who, with intent to cheat and defraud, shall obtain from any other person or persons, any money, property or valuable thing, by means or by use of any trick or deception, or false or fraudulent representation, or statement or pretense, or by any other means or instrument or devise, or by means of any check or by any other written or printed or engraved instrument or spurious coin or metal, shall upon conviction thereof be punished in the same manner and to the same extent as for stealing the money, property or thing so obtained.

SEC. 76. *Relating to malicious slander of banks and financial institutions.* Whenever any person maliciously and without probable cause circulates or causes to be circulated any rumor with intent to injuriously affect the financial standing or reputation of any bank, financial or business institution or the financial standing of any individual in this province, either verbally or in writing, or makes any statement or circulates or assists in circulating any false rumor or report for the purpose of injuring the financial standing of any bank or financial institution, or seeks either by word or action to start a run upon said bank or financial institution, or connives or conspires with any person for the purpose of injuring the standing, or starting a run on said bank or financial institution, he shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$500 and by imprisonment in jail for not less than three months nor more than one year.

SEC. 77. *Checks and drafts payable on holidays.* No provision of the act relating to negotiable instruments, or of any law of this province, shall be so construed as to prevent banks from paying checks, drafts, or other bills of exchange upon Saturday

afternoon, or upon any legal holiday; provided, such payments would be legal if made at other times.

SEC. 78. *Relating to notaries public who are shareholders or officers in banks or corporations.* It shall be lawful for any notary public who is a stockholder, director, officer, or employee of a bank or other corporation to take the acknowledgment of any party to any written instrument executed to or by such corporation, or to administer an oath to any other stockholder, director, officer, employee, or agent of such corporation, or to protest for non-acceptance, or non-payment bills of exchange, drafts, checks, notes and other negotiable instruments which may be owned or held for collection by such corporation; provided, it shall be unlawful for any notary public to take the acknowledgment of an instrument by or to a bank or other corporation of which he is a stockholder, director, officer, or employee, where such notary is a party to such instrument either individually or as a representative of such corporation, or to protest any negotiable instrument owned or held for collection by such corporation, where such notary is individually a party to such instrument.

SEC. 79. *Prohibiting drawing checks or drafts on banks where no funds or credit exist.* It shall be unlawful for any person, corporation, or partnership, to draw, make, utter, issue or deliver to another any check or draft on any bank or depository for the payment of money or its equivalent, knowing, at the time of the making, drawing, uttering or delivery of any such check or draft as aforesaid, that he has no funds on deposit in or credits with such bank or depository with which to pay such check or draft upon presentation.

(a) That any person, corporation or partnership willfully violating any of the provisions of this act shall be guilty of a misdemeanor if said check or draft is drawn for twenty dollars or less, and shall be punished by a fine of not less than twenty-five dollars and not more than one hundred dollars, or imprisonment in the provincial jail for a period of not less than ten days and not more than six months, or by both such fine and imprisonment: if said check or draft shall be drawn for an amount of twenty dollars or more, such person shall be deemed guilty of a felony and upon conviction shall be punished by a fine of not less than one hundred dollars and not more than five thousand dollars, or by imprisonment for a period of not less than one year nor more than five years, or by both fine and imprisonment.

(b) That in any case where a prosecution is begun under this act, the defendant shall have a right, upon application made for that purpose before trial, to have said action abated by showing to the court or judge that he has had an account in said bank upon which said check or draft was drawn, thirty days next prior to the time said check or draft was delivered and that said check or draft was drawn upon said bank without intent to defraud the party receiving the same, and if the court shall so find, said action shall be abated and the defendant shall be discharged upon paying into court the amount of such check and the costs in said case.

(c) "*Credits*" defined. The word "credits" as used herein shall be construed to be an arrangement or understanding with the bank or depository for the payment of such check or draft.

(d) It is further provided that nothing in this act shall apply in cases where checks or drafts were actually honored by bank or banks on which they were drawn.

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